

REMARKS

Claims 1-17 are pending in the present applications. Applicants have carefully studied the outstanding Office Action. The present Response is intended to be fully responsive to all points of rejection raised by the Examiner and is believed to place the application in condition for allowance. Favorable reconsideration and allowance of this application are respectfully requested. No new matter has been added by any of the amendments to the specification. Applicants respectfully request reconsideration and withdrawal of the Examiner's rejections in view of the foregoing amendments and following remarks.

CLAIM REJECTIONS – 35 U.S.C. § 102**Claims 1-10 and 15-16**

The Examiner has rejected claims 1-10 and 15-16 under 35 U.S.C. § 102(b) as being anticipated by Wright (Alternative Medicine, Townsend Letter for Doctors & Patients, July, 1999, pages 2-3). The Examiner stated further:

Wright teaches the use of D-Mannose for the treatment of urinary tract infections (page 2, Middle, first paragraph under the title U-TRACT #889). The dosage is one teaspoon in the form of a powder, with meals, three times daily. Each serving contains 1900mg of D-mannose (page 2, paragraph 2 and serving size below third paragraph) and the total number of servings is 26. This works out to about 8 days. This meets the limitations of instant claims 1-3.

Wright teaches administration of d-mannose capsule further comprising pollen extract, extract of Crataeva nurvala and willow bark (page 3, lines 1-9). The dosage of D-mannose in the capsule is 2000mg (page 3, line 11). This teaching is seen to meet the limitations of claims 4-10. The capsule taught by Wright, comprising D-mannose, pollen extract and extracts of Crataeva nurvala and willow bark is a composition, which meets the limitations of claims 15-16.

This rejection is respectfully traversed. The Examiner mistakenly attributes all information on the referenced "Alternative Medicine" website document (see Exhibit A, attached) to the Wright ©1999 article. However, the referenced "Alternative Medicine" website document has a copyright of 2004 and attributes information to both the Wright 1999 Article and to Progressive Laboratories, Inc., the current assignee of the subject application. While a review of the referenced Wright article (see Exhibit B attached, found on Dr. Jonathan V. Wright's website www.tahoma-clinic.com/mannose.shtml) teaches the use of D-Mannose for the treatment of urinary tract infections, the dosage and course of treatment disclosed are strictly in line with the prior art methods discussed the specification of the subject application (see page 7, lines 2-

12).

Contrary to Examiners interpretation, the U-TRACT™ #869 dosage information is not disclosed in the Wright 1999 Article, but rather is an advertisement by the Alternative Medicine website (© 2004) of the commercial embodiment of the subject invention manufactured by the assignee of the subject application, Progressive Laboratories, Inc. (see Exhibit C, website document at <http://www.progressivelabs.com/product.php?productid=124&cat=384&page=1>) Thus, the reference cited by the Examiner is not prior art in accordance with 35 U.S.C. §102(b) with respect to the subject application. Thus, a rejection under 35 U.S.C. § 102 is improper. Applicants respectfully request Examiner to withdraw this rejection.

CLAIM REJECTIONS – 35 U.S.C. § 103

The Examiner has also rejected claims 11-14 and 17 under 35 U.S.C. § 103(a) as being unpatentable over Wright (Alternative Medicine, Townsend Letter for Doctors & Patients, July, 1999, pages 2-3) in combination with Carella et al (WO 97/29763) and Iwahi et al. (J. Med. Microbol., 1982, 15(3), 303-316. After stating the factual inquiries required by *Graham* in determining the obviousness of an invention under 35 U.S.C. §103(a), the Examiner stated:

Wright teaches the use of D-Mannose for the treatment urinary tract infections (page 2, Middle, first paragraph under the title U-TRACT #869). The dosage is one teaspoon in the form of a powder, with meals, three times daily. Each serving contains 1900mg of D-mannose (page2, paragraph 2 and serving size below third paragraph) and the total number of servings is 26. This works out to about 8 days.

Wright teaches administration of d-mannose capsule further comprising pollen extract, extract of *Crataeva nurvala* and willow bark (page 3, lines 1-9). The dosage of D-mannose in the capsule is 2000mg (page 3, line 11). The capsule taught by Wright, comprising D-mannose, pollen extract and extracts of *Crataeva nurvala* and willow bark is a composition. However, Wright (does not teach the specific dosages of the active agents as instantly claimed.

Carella et al teach the use of D-mannose in a composition for the promotion of a healthy environment in urogenital tracts and for treating urogenital disorders (page 2, lines 7-10 and 16-17; page 5, lines 15-16). Plant extracts (interpreted as herbs that affect urinary tract, as instantly claimed in claim 5) are also included in the composition (page 8, lines 23-27). The compositions can be administered as tablets, capsules (page 10, lines 7-10) and can contain 5 to about 75% per unit dose (page 6, lines 22-25). According to Carella additional ingredients and dosages can be readily ascertained using routine experimentation (page 14, lines 32-35). This means that the art recognizes that the dosages can be varied or frequency of administration adjusted till symptoms subside.

Iwahi et al teach that d-mannose is potent in inhibiting viral adhesion to the urinary tract (Abstract).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to administer d-mannose containing the herbal extracts as instantly claimed, to treat urinary tract infection since the use of mannose and the said herbal extracts for the said treatment is seen to be taught in the prior art. One of ordinary skill in the art would be motivated to use d-mannose and pollen extract and extracts of *crataeva nurvala* and willow bark as the active agents since d-mannose is potent in preventing viral adhesions to the urinary tract as taught by Iwahi et al and the extracts of pollen, *crataeva nurvala* and willow bark have additional benefits as taught by Wright

(page 3, lines 1-7).

This rejection is respectfully traversed. For the reasons stated previously, the Examiner mistakenly attributes all information on the referenced "Alternative Medicine" website document (see Exhibit A, attached) to the Wright ©1999 article. While the Wright ©1999 Article generally discloses the use of D-Mannose for the treatment of urinary tract infections, the dosage and course of treatment disclosed are strictly in line with the prior art methods discussed the specification of the subject application (see page 7, lines 2-12). Further, there is no disclosure in the Wright Article of d-mannose capsules comprising pollen extract, extract of *Crataeva nurvala* and willow bark. The methods of claims 11-14 are not shown within any of the cited references or combination thereof. The composition of claim 17 is not disclosed within any of the cited references or combination thereof.


Absent any specific identification of the aforementioned elements being taught or suggested in the Wright ©1999 Article, Carella et al. '763, or Iwahi the aforementioned claims are nonobvious under 35 U.S.C. § 103. The Examiner has the burden of establishing a *prima facie* case of obviousness. A general statement that "[i]t would have been obvious to one of ordinary skill in the art at the time the invention was made to administer d-mannose containing other herbs ... is seen to be taught in the prior art" does not establish a *prima facie* case of obviousness. Examiner has not established a *prima facie* case of obviousness, and the rejection of claims 11-14 and 17 should be withdrawn.

CONCLUSION

Applicants believe the claims are in condition for allowance. It is respectfully urged that the subject application is patentable over references cited by Examiner and is now in condition for allowance. Applicants request consideration of the application and allowance of the claims. If there are any outstanding issues that the Examiner feels may be resolved by way of a telephone conference, the Examiner is cordially invited to contact David W. Carstens at 972.367.2001.

The Commissioner is hereby authorized to charge any additional payments that may be due for additional claims to Deposit Account 50-0392.

Respectfully submitted,

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